

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**VIRGIL HICKEY,** )  
                        )  
                        )  
**Plaintiff,**         )  
                        )  
                        )      **Civil No. 3:13-cv-0937**  
**v.**                    )  
                        )  
**WEBB'S REFRESHMENTS, INC.,** )  
                        )  
                        )  
**Defendant.**         )

**ORDER**

Pending before the Court is a Report and Recommendation (“R & R”) of the Magistrate Judge (Docket No. 30), recommending that Defendant’s “Second Motion to Dismiss” (Docket No. 28), be granted and that this action be dismissed with prejudice. The R & R does not, however, recommend an award of attorney fees and expenses. Plaintiff failed to file a Response to the Second Motion to Dismiss, and no objections were made to the R & R.

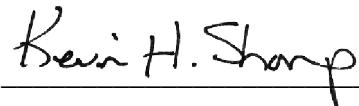
Where no objections are made to the R & R, “[t]he district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” FED R. CIV. P. 72(b).

Having conducted a *de novo* review in accordance with Rule 72, the Court will accept the disposition set forth in the R & R. Accordingly, the Court rules as follows:

- (1) The R & R (Docket No. 30) is hereby ACCEPTED and APPROVED;
- (2) Defendant’s Second Motion to Dismiss (Docket No. 28) is GRANTED.

The Clerk of the Court shall enter Final Judgment in a separate document in accordance with Rule 58 of the Federal Rules of Civil Procedure.

It is SO ORDERED.

  
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KEVIN H. SHARP  
UNITED STATES DISTRICT JUDGE